

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

FLAME S.A.,

Plaintiff,

GLORY WEALTH SHIPPING PTE LTD.,

Consolidated Plaintiff,

v.

INDUSTRIAL CARRIERS, INC.,
VISTA SHIPPING, INC.,
FREIGHT BULK PTE. LTD., and
VIKTOR BARANSKIY

Defendants.

Civil Action No.
2:13-cv-00658-RGD-LRL
2:13-cv-00704-RGD-LRL

**PLAINTIFF FLAME, S.A.’s
MOTION TO COMPEL OWNER TO CARE FOR VESSEL AND CREW**

Plaintiff FLAME S.A. (“Plaintiff”), by and through its undersigned counsel, respectfully moves this Court for an Order Compelling Defendant Owner Freight Bulk, Pte. Ltd. to Care for the Vessel and Crew.

Defendant Freight Bulk, Pte. Ltd. (“Defendant”) has already been implicated in a scheme to defraud Plaintiff, and now refuses to provide fresh food, water, fuel, and other necessities to the M/V CAPE VIWER (the “Vessel”) and her crew. The Vessel is due to run out of food at the end of the month, and will run out of fresh water and fuel in less than one week’s time. Plaintiff has asked Defendant to contribute to these costs, but Defendant has refused. Defendant’s refusal to take care of its responsibilities further frustrates Plaintiff’s efforts to collect the money Defendant owes to Plaintiff by decreasing the value of the Vessel, and by unnecessarily forcing Plaintiff to incur additional legal fees to litigate ancillary matters, like this Motion.

On November 22, 2013, the Court granted Plaintiff's Motion for Order of Issuance of Process of Maritime Attachment and Garnishment on the Vessel. Over eighty days have passed, and each day that the Vessel lies in port, it is a wasting asset. Each day, the maintenance costs of the Vessel are approximately \$8,000 to \$8,500, and since the Vessel was attached on November 29, 2013, the total costs are in excess of \$400,000.

Defendant is the owner of the Vessel. After the Court ordered attachment of the Vessel, Defendant could have done the commercially reasonable thing and posted security in order to mitigate losses but Defendant has not done so. The Vessel is due to be resupplied with fresh food, water, and fuel. Defendant, who made a claim of ownership over the Vessel, has refused to contribute to these expenses.

Defendant disputes Plaintiff's allegations in this lawsuit and contends that its ownership interest in the Vessel should not be disturbed by the Court. Defendant cannot make this claim while simultaneously shirking all responsibility to pay for the Vessel's maintenance. The Court should Order Defendant to contribute to the cost to maintain the Vessel and crew until the Vessel is sold at auction or until the merits of this lawsuit are resolved.

Defendant erroneously contends that it is not required to take care of the Vessel and crew. As a result, Defendant, controlled by Viktor Baranskiy, has effectively abandoned the Vessel and crew. But Defendant is obligated as a matter of law to contribute to these *custodia legis* expenses. Defendant has made a claim of ownership against the M/V CAPE VIEWER – it is not as though Defendant concedes that the Vessel should be sold and the proceeds paid to Plaintiff. If Defendant wishes to change its position and concede that the Vessel should be sold to satisfy its debt to Plaintiff, Plaintiff will withdraw this Motion.

CONCLUSION

For the reasons stated herein above, the Court should grant Plaintiff's Motion to Compel Owner to Care for the Vessel and Crew until such time as the Vessel can be auctioned or the merits of the claim decided.

This 12th day of February 2014.

FLAME S.A.

/s/ Steven M. Stancliff

Steven M. Stancliff, VSB No. 73853
Attorney for Plaintiff Flame S.A.
CRENSHAW, WARE & MARTIN, P.L.C.
150 W. Main Street, Suite 1500
Norfolk, VA 23510
Tel: (757) 623-3000
Fax: (757) 623-5735
sstancliff@cwm-law.com

- and -

William R. Bennett, III
Lauren B. Wilgus
Attorneys for Plaintiff Flame S.A.
Admitted Pro Hac Vice
BLANK ROME LLP
The Chrysler Building
405 Lexington Avenue
New York, NY 10174
Tel: (212) 885-5000
Fax: (212) 885-5001
WBennett@BlankRome.com
LWilgus@BlankRome.com

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2014, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such electronic filing to the following counsel of record:

Patrick M. Brogan
DAVEY & BROGAN, P.C.
101 Granby Street, Suite 300
Norfolk, Virginia 23510
Tel: (757) 622-0100
Fax: (757) 622-4924
Email: pbrogan@daveybroganpc.com
Attorney for Defendant Freight Bulk PTE, LTD.

George M. Chalos (*pro hac vice*)
CHALOS & CO., P.C.
55 Hamilton Avenue
Oyster Bay, New York 11771
Tel: (516) 714-4300
Fax: (516) 750-9051
Email: gmc@chaloslaw.com
Attorney for Defendant Freight Bulk PTE, LTD.

Michelle Hess (VSB No. 71080)
HOLLAND & KNIGHT, LLP
1600 Tysons Blvd , Suite 700
McLean, VA 22102
Tel: (703) 720-8600
Fax: (703) 720-8610
Email: micelle.hess@hklaw.com
Attorney for Consolidated Plaintiff
Glory Wealth Shipping Pte Ltd.

James H. Power (*pro hac vice*)
HOLLAND & KNIGHT, LLP
31 West 52nd Street,
New York, NY 10019
Tel: (212)513-3200
Fax: (212)385-9010
Email: James.power@hklaw.com
Attorney for Consolidated Plaintiff
Glory Wealth Shipping Pte Ltd.

/s/ Steven M. Stancliff
Steven M. Stancliff, VSB No. 73853
Attorney for Plaintiff Flame S.A.
CRENSHAW, WARE & MARTIN, P.L.C.
150 W. Main Street, Suite 1500
Norfolk, VA 23510
Tel: (757) 623-3000
Fax: (757) 623-5735
sstancliff@cwm-law.com